

E.T. asks the Utah Labor Commission to review Administrative Law Judge Sessions' dismissal without prejudice of Ms. T.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

### **BACKGROUND AND ISSUE PRESENTED**

On December 27, 1999, Ms. T. filed an application with the Commission to compel Delta Airlines to pay workers' compensation benefits for injuries allegedly caused by a work-related accident on January 25, 1996.

Administrative Law Judge Eblen scheduled Ms. T.'s claim for an evidentiary hearing on September 22, 2000, but on that date the parties informed Judge Eblen that no hearing was necessary. Instead, the parties agreed to provide Judge Eblen with a stipulation of fact and relevant medical records so that Judge Eblen could refer the medical aspects of Ms. T.'s claim to a medical panel for evaluation.

Judge Eblen never received the promised stipulation and medical records. On May 8, 2003, Judge Eblen informed the parties that Ms. T.'s claim would be dismissed without prejudice if the stipulation and medical records were not submitted within 60 days.

Thereafter, Judge Eblen resigned her position with the Commission and Judge Sessions assumed authority over Ms. T.'s claim. On November 30, 2004, Judge Sessions dismissed the claim because the stipulation and medical records still had not been submitted. Ms. T. filed a motion for review on December 30, 2004, which was transferred to the Commission on October 20, 2005.

In her request for Commission review of Judge Sessions' decision, Ms. T. neither disputes the foregoing events, nor suggests any reason that prevented submission of the promised stipulation of fact and medical records. Instead, Ms. T. argues that Judge Sessions should have set her claim for another hearing, rather than dismissing the claim. Alternatively, Ms. T. asks the Commission for additional time to submit the required information.

### **DISCUSSION AND CONCLUSION OF LAW**

While the Commission generally favors resolution of claims on their merits, this claim is one in which the parties themselves agreed to submit a stipulation and medical records but failed to do so. Judge Eblen then reminded them of their obligation, to no avail. Both Judge Eblen and Judge Sessions allowed more than enough time for such purposes. Under these circumstances, the Commission concurs with Judge Sessions' dismissal of Ms. T.'s claim without prejudice.

### **ORDER**

The Commission denies Ms. T.'s motion for review and affirms Judge Session's order of dismissal. It is so ordered.

Dated this 26<sup>th</sup> day of October, 2005.

R. Lee Ellertson, Commissioner